



Hawaii Public Housing Authority
Annual Plan
Fiscal Year 2011

ELIGIBILITY, SELECTION AND ADMISSIONS POLICIES

Chapter 2
ELIGIBILITY FOR ADMISSION
[24 CFR 960.201]

INTRODUCTION

This Chapter defines both HUD's and the PHA's criteria for admission and denial of admission to the program. The policy of this PHA is to strive for objectivity and consistency in applying these criteria to evaluate the qualifications of families who apply. The PHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the PHA pertaining to their eligibility.

A. QUALIFICATION FOR ADMISSION

It is the PHA's policy to admit qualified applicants only. An applicant is qualified if he or she meets the following criteria:

- Is a family as defined in this Chapter;
- Heads a household where at least one member of the household is either a citizen or eligible non-citizen. (24 CFR Part 200 and Part 5, Subpart E);
- Has an Annual Income at the time of admission that does not exceed the low income limits for occupancy established by HUD and posted separately in the PHA offices:
 - The Quality Housing and Work Responsibility Act of 1998 authorizes PHAs to admit families whose income does not exceed the low-income limit (80% of median area income) once the PHA has met the annual 40% targeted income requirement of extremely low-income families (families whose income does not exceed 30% of median area income).
- Provides a Social Security number for all family members, age 6 or older, or will provide written certification that they do not have Social Security numbers;
- Meets or exceeds the tenant Selection and Suitability Criteria as set forth in this policy including the attendance and successful completion of the PHA's pre-occupancy class;
- Not have an outstanding debt owed to the PHA as a participant in any of its programs;
- Not have an outstanding liability for unpaid rent or damages incurred while previously participating in any Section 8 rental subsidy program;
- Not have been evicted since March 1, 1985 from a public housing program administered by the PHA or its predecessor, the Hawaii Housing Authority;

- Not have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- Not subject to lifetime registration requirements under any state sex offender's registration program.

Timing for the Verification of Qualifying Factors

The qualifying factors of eligibility, other than citizenship status, will be verified before the family is placed on the waiting list.

B. FAMILY COMPOSITION

Definition of Family

The applicant must qualify as a Family. A Family may be a single person or a group of persons.

A group of persons is defined by the PHA as two or more persons who intend to share residency whose income and resources are available to meet the family's needs, and will live together in PHA housing.

Elderly, disabled, and displaced families are defined by HUD in CFR 5.403.

The term "Family" also includes, but is not limited to:

- A family with or without children;
- An elderly family;
- A disabled family;
- A displaced family;
- The remaining member of a tenant family;
- A single person who is not elderly, displaced, or a person with disabilities, or the remaining member of a tenant family;
- Two or more elderly or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family;
- Two or more near-elderly persons living together, or one or more near-elderly persons living with one or more live-in aides.

The temporary absence of a child from the home due to placement in foster care shall not be considered in determining the family composition and family size.

Occupancy by Police Officers

In order to provide an increased sense of security for public housing residents, the PHA may allow public housing units to be occupied by police officers.

Police officers will not be required to be income eligible to qualify for admission to the PHA's public housing program.

Head of Household

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law.

Emancipated minors who qualify under State law will be recognized as head of household if there is a court order recognizing them as an emancipated minor.

A family may designate an elderly or disabled family member as head of household solely to qualify the family as an Elderly Family, provided that the person is at least partially responsible for paying the rent.

Spouse of Head

Spouse means the husband or wife of the head.

For proper application of the Non Citizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

Co-head

An individual in the household who is equally responsible for the lease with the Head of Household. A household may have either a spouse or co-head, but not both. A co-head never qualifies as a dependent.

Live-In Attendants

A Family may include a live-in aide provided that such live-in aide:

- Is determined by the PHA to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities.
- Is not obligated for the support of the person(s), and
- Would not be living in the unit except to provide care for the person(s).

A live-in aide is not considered to be an assisted family member and has no rights or benefits under the program:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides are not subject to Non-Citizen Rule requirements.
- Live-in aides may not be considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

Family members of a live-in attendant may also reside in the unit, providing doing so does not increase the subsidy by the cost of an additional bedroom and that the presence of the family member(s) does not overcrowd the unit.

A Live-in Aide may only reside in the unit with the approval of the PHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near-elderly (50-61) or disabled.

Verification of the need for a live-in aide must include the hours the care will be provided.

The PHA has the right to disapprove a request for a live-in aide based on the "Other Eligibility Criteria" described in this Chapter.

Over Income Families

The PHA will rent units to over-income families on a month-to-month basis, if there are no eligible families applying for assistance that month.

Over-income families must agree to vacate the unit with at least 30 day's notice provided by the PHA, if the unit is needed for an income-eligible family.

The PHA will publish a 30-day notice if the PHA determines the need to house over-income families.

C. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216]

Families are required to provide verification of Social Security Numbers for all family members age 6 and older prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial of admission or termination of tenancy.

If a member does not have a Social Security Number they must sign a certification stating that they do not have one. The certification shall:

- state the individual's name, state that the individual has not been issued a Social Security Number;
- state that the individual will disclose the Social Security Number, if they obtain one at a later date;
- be signed and dated.

D. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the six immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed". Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

No eligible members. Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students defined by HUD in the non-citizen regulations are not eligible for assistance.

The PHA will establish and verify eligibility no later than the date of the family's annual reexamination following October 21, 1998.

No individual or family applying for financial assistance may receive such financial assistance prior to the affirmative establishment and verification of eligibility of at least one individual or family member.

E. OTHER ELIGIBILITY CRITERIA

All applicants will be processed in accordance with HUD's regulations (24 CFR Part 960) and sound management practices. Applicants will be required to demonstrate ability to comply with essential provisions of the lease as summarized below.

All applicants must demonstrate through an assessment of current and previous one year past behavior the ability:

- to pay rent and other charges as required by the lease in a timely manner;
- to care for and avoid damaging the unit and common areas;
- to use facilities, appliances and equipment in a reasonable way;

- to create no health or safety hazards, and to report maintenance needs in a timely manner;
- not to interfere with the rights and peaceful enjoyment of others and to avoid damaging the property of others;
- not to engage in criminal activity or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents or staff and not to engage in drug-related criminal activity on or off the PHA premises;
- not to have ever been convicted of manufacturing or producing methamphetamine, also known as "speed" or "ice."
- to comply with necessary and reasonable rules and program requirements of HUD and the PHA; and,
- to comply with local health and safety codes.

Denial of Admission for Previous Debts to This or Any Other PHA

Previous outstanding debts to this PHA or any PHA resulting from a previous tenancy in the public housing or Section 8 program must be paid in full prior to acceptance of application for admission. No Payment Agreement will be accepted.

At the time of initial application, the applicant must pay any previous debt prior to being placed on the waiting list.

Either spouse is responsible for the entire debt incurred as a previous PHA tenant. Children of the head or spouse who had incurred a debt to the PHA will not be held responsible for the parent's previous debt.

F. ONE STRIKE POLICY

Denial of Admission for Drug-Related and/or Other Criminal Activity

Purpose

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of the PHA to fully endorse and implement a policy which is designed to:

- Help create and maintain a safe and drug-free community;
- Keep our program participants free from threats to their personal and family safety;
- Support parental efforts to instill values of personal responsibility and hard work;
- Help maintain an environment where children can live safely, learn and grow up to be productive citizens; and

- Assist families in their vocational/educational goals in the pursuit of self-sufficiency.

Administration

All screening procedures shall be administered fairly and in such a way as not to discriminate on the basis of race, color, sex, religion, marital status, creed, national or ethnic origin, age, familial status, handicap or disability or HIV infection, and not to violate right to privacy.

To the maximum extent possible, the PHA will involve other community and governmental entities in the promotion and enforcement of this policy.

This policy will be posted on the PHA's bulletin board and copies made readily available to applicants and tenants upon request.

HUD Definitions

"Drug related criminal activity" is the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

Drug related criminal activity means *on or off the premises, not just on or near the premises*.

"Criminal activity" includes any criminal activity that threatens the health, safety or right to peaceful enjoyment of the resident's public housing premises by other residents or employees of the PHA.

Screening for "One Strike"

In an effort to prevent drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or the right to peaceful enjoyment of the premises by other residents, the PHA will endeavor to screen applicants as thoroughly and fairly as possible..

If in the past the PHA initiated a lease termination, which may or may not have resulted in eviction for any reason cited under the One Strike Notice, for a family, as a prior resident of public housing, the PHA shall have the discretion to consider all circumstances of the case regarding the extent of participation by non-involved family members.

The PHA will not be obligated to ferret out information concerning a family's criminal activities as part of the processing of an application for assistance. Initial screening will be limited to routine inquiries of the family and any other information provided to the PHA regarding this matter. The inquiries will be standardized and directed to all applicants by inclusion in the application form.

If as a result of the standardized inquiry, or the receipt of a verifiable referral, there is indication that the family or any family member is engaged in drug-related criminal or violent criminal

activity, the PHA will conduct closer inquiry to determine whether the family should be denied admission.

If the screening indicates that any family member has been arrested or convicted within the prior two (2) years for drug-related or violent criminal activity, the PHA shall obtain verification through police/court records.

Law Enforcement Records

The PHA will check criminal history for all applicants who are 18 years old and over to determine whether any member of the family has engaged in violent or drug-related criminal activity.

Verification of any past activity will be done prior to final eligibility and will include a check of conviction records.

The PHA has applied to the Federal Bureau of Investigation (FBI) and obtained a unique Originating Agency Identifier (ORI) number in order to maximize its efforts in obtaining applicant criminal record history.

The PHA has contracted with the Criminal Justice Center, an FBI approved channeling agent, to process and funnel requests in order to obtain National Crime Information Center (NCIC) data for the purpose of accessing FBI criminal records.

The PHA will do a name check only through its local law enforcement agency to access limited information from the NCIC.

The PHA acknowledges that a name check only may result in an inconclusive result without a positive fingerprint comparison. The results of an inconclusive name check will not be used to deny an applicant admission to housing.

If the channeling agency indicates to the PHA that there is a criminal history record indexed in the Interstate Identification Index which might belong to the applicant, the PHA must submit an applicant fingerprint card to the FBI through the appropriate channel in order to verify whether the criminal record is in fact the applicant's. Should the applicant instead elect to withdraw their application, no further action will be necessary.

Standard for Violation

Persons evicted from public housing, Indian housing, Section 23, or any Section 8 program because of drug-related criminal activity are ineligible for admission to Public Housing.

No member of the applicant's family may have engaged in drug related or violent criminal activity within the past two (2) years.

The PHA will permanently deny admission to public housing persons convicted of manufacturing or producing methamphetamine on the premises of the assisted housing project in

violation of any Federal or State law. "Premises" is defined as the building or complex in which the dwelling unit is located, including common areas and grounds.

The PHA will deny participation in the program to applicants where the PHA determines there is reasonable cause to believe that the person is illegally using a controlled substance or engages in drug-related or other criminal activity. The same will apply if it is determined that the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents. This includes cases where the PHA determines that there is a pattern of illegal use of controlled substances or a pattern of alcohol abuse.

The PHA will consider the use of a controlled substance or alcohol to be a *pattern* if there is more than one incident during the previous twelve (12) months.

"Engaged in or engaging in or recent history of" drug related criminal activity means any act within the past two (2) years by applicants or participants, household members, or guests which involved drug-related criminal activity including, without limitation, drug-related criminal activity, possession and/or use of narcotic paraphernalia, which did or did not result in the arrest and/or conviction of the applicant or participant, household members, or guests.

"Engaged in or engaging in or recent history of" criminal activity means any act within the past two (2) years by applicants or participants, household members, or guests which involved criminal activity that would threaten the health, safety or right to peaceful enjoyment of the public housing premises by other residents or employees of the HA, which did or did not result in the arrest and/or conviction of the applicant or participant, household members, or guests.

In evaluating evidence of negative past behavior, the PHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

The PHA will waive the requirement regarding drug-related criminal activity if:

- The person demonstrates successful completion of a credible rehabilitation program approved by the PHA, or
- The individual involved in drug-related criminal activity is no longer in the household because the person is incarcerated.

The PHA may permit eligibility for occupancy and impose conditions that the involved family member(s) does not reside in the unit. The PHA will consider evidence that the person is no longer in the household such as divorce decree, incarceration, death, copy of a new lease with the owner's telephone number and address or other substantiating evidence.

Other criminal activity

"Other criminal activity" means a history of criminal activity involving crimes of actual or threatened violence to persons or property, or a history of other criminal acts, conduct or behavior which would adversely affect the health, safety, or welfare of other residents.

employees or agents of Management, visitors, or persons doing work on the premises at Management's request.

For the purposes of this policy, this is construed to mean that a member of the current family has been arrested or convicted of any criminal or drug-related criminal activity within the past twenty four (24) months.

HUD defines violent criminal activity as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity is being engaged in by any family member.

- No family member may have threatened abusive or violent behavior toward PHA personnel at any time.
- No family member may have engaged in or threatened or committed abusive or violent behavior toward other residents, PHA personnel, agents of Management, visitors, or persons doing work on the premises at Management's request within the past three years.
- No family member may have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program in the last two (2) years.

Evidence

The PHA must have evidence of the violation.

"Preponderance of evidence" is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it: that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred.

- Preponderance of evidence is not to be determined by the number of witnesses, but by the greater weight of all evidence.

"Credible evidence" may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants, evidence gathered by PHA inspectors and/or investigators, and evidence gathered from the PHA Hotline.

The PHA may pursue fact-finding efforts as needed to obtain credible evidence.

Obtaining Information From Drug Abuse Treatment Centers

The PHA will inquire of all applicants whether they are currently using or in the past have ever engaged in the illegal use of a controlled substance.

The PHA will inquire of all applicants who respond in the affirmative whether they are currently receiving treatment or have ever received treatment at a drug abuse treatment facility.

All applicants who respond in the affirmative will be required to sign a written consent authorizing the PHA to receive information from the drug abuse treatment facility stating only whether the facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance.

The authorization will be sent to the drug abuse treatment facility with a PHA postage paid return addressed envelope addressed to the attention of the Public Housing Manager.

The PHA will maintain such information received from a drug abuse treatment facility in a manner that respects its confidentiality.

Such confidential information will be reviewed by the Public Housing Manager who will make a decision as to the outcome of the review.

Such confidential information will not be misused or improperly disseminated and will be destroyed not later than 5 days after the date on which the PHA gives final approval for admission.

If the application is denied, the information will be destroyed within three hundred fifty two (352) days following the date on which the statute of limitations for commencement of a civil action from the applicant based upon the denial of admission has expired.

Confidentiality of Criminal Records

The PHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

All criminal reports, while needed by the Public Housing Manager for screening for criminal behavior, will be housed in a locked file with access restricted to individuals responsible for such screening.

Misuse of the above information by any employee will be grounds for termination of employment. Penalties for misuse are contained in Personnel Policies.

If the family is determined eligible for initial or continued assistance, the PHA's copy of the criminal report shall be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

If the family's assistance is denied or terminated, the criminal record information shall be shredded immediately upon completion of the review or hearing procedures and a final decision has been made.

The PHA will document in the family's file that the family was denied admission or the tenancy was terminated due to findings in the Criminal History Report

Disclosure of Criminal Records to Family

Before the PHA takes any adverse action based on a criminal conviction record, the applicant will be provided with a copy of the criminal record and an opportunity to dispute the record. Applicants will be provided an opportunity to dispute the record at an informal hearing. Tenants may contest such records at the court hearing in the case of evictions.

Hearings

(See Chapter titled "Complaints, Grievances and Appeals")

If information is revealed that would cause the PHA to deny admission to the household and the person disputes the information, s/he shall be given an opportunity for an informal hearing according to the PHA's hearing procedures outlined in the Chapter on Complaints, Grievances and Appeals.

G. SCREENING FOR SUITABILITY [24 CFR 960.204, 960.205]

In developing its admission policies, the aim of the PHA is to attain a tenant body composed of families with a broad range of incomes and to avoid concentrations of the most economically deprived families and families with serious social problems. Therefore, it is the policy of the PHA to deny admission to applicants whose habits and practices may reasonably be expected to have a detrimental effect on the operations of the development or neighborhood, or on the quality of life for its residents.

The PHA will conduct a detailed interview of all applicants. The interview form will contain questions designed to evaluate the qualifications of applicants to meet the essential requirements of tenancy. Answers will be subject to third party verification.

An applicant's intentional misrepresentation of any information related to eligibility, award of preference for admission, housing history, allowances, family composition or rent will result in denial of admission.

Applicants must be able to demonstrate the ability and willingness to comply with the terms of the lease, either all or with assistance which they can demonstrate that they have or will have at the time of admission. (24 CFR 8.2 Definition: Qualified Individual with Handicaps) The availability of assistance is subject to verification by the PHA.

The PHA's minimum age for admission as head of household is 18, to avoid entering into leases which would not be valid or enforceable under applicable law.

The PHA does not permit a parent or legal guardian to co-sign the lease on the applicant's behalf if the head of household is under 18.

As a part of the final eligibility determination, the PHA will screen each applicant household to assess their suitability as renters.

The PHA will complete a rental history check on all applicants.

The PHA shall rely upon sources of information which may include, but not be limited to, PHA records, personal interviews with the applicant or tenant, interviews with previous landlords, employers, family social workers, parole officers, criminal and court records, clinics, physicians or the police department, and home visits for persons who have had negative landlord reference(s) for poor housekeeping habits.

This will be done in order to determine whether the individual attributes, prior conduct, and behavior of a particular applicant is likely to interfere with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety or welfare.

The PHA will complete a home visit at the current residence of all applicants who have had landlord verifications returned to the PHA with unfavorable comments concerning their housekeeping habits. Applicants shall have at least two working days advance written notice of home visits.

Factors to be considered in the screening are housekeeping habits, rent paying habits, prior history as a tenant, criminal records, the ability of the applicant to maintain the responsibilities of tenancy, and whether the conduct of the applicant in present or prior housing has been such that admission to the program would adversely affect the health, safety or welfare of other residents, or the physical environment, or the financial stability of the project.

The PHA's examination of relevant information pertaining to past and current habits or practices will include, but is not limited to, an assessment of:

- The applicant's past performance in meeting financial obligations, especially rent.
- Eviction or a record of disturbance of neighbors sufficient to warrant a police call, destruction of property, or living or housekeeping habits at present or prior residences which may adversely affect the health, safety, or welfare of other tenants or neighbors.
- Any history of criminal activity on the part of any applicant family member involving criminal acts, including drug-related criminal activity.
- Any history or evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy by neighbors.
- Any history of initiating threats or behaving in a manner indicating an intent to assault employees or other tenants.
- Any history of alcohol or substance abuse that would threaten the health, welfare, or right to peaceful enjoyment of the premises by other residents.
- The ability and willingness of an applicant to comply with the essential lease requirements will be verified and documented by the PHA. The information to be considered in the screening process shall be reasonably related to assessing the conduct of

the applicant and other family members listed on the application in present and prior housing.

The history of applicant conduct and behavior must demonstrate that the applicant family can reasonably be expected not to:

- Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare. [24CFR 960.205(b)]
- Adversely affect the physical environment or financial stability of the project. [24CFR 960.205(b)]
- Violate the terms and conditions of the lease.
- Require services from PHA staff that would alter the fundamental nature of the PHA 's program.

Rent Paying Habits

The PHA will examine any Housing Authority records from a prior tenancy, and will request written references from the applicant's current landlord and may request written references from former landlords for up to the past two (2) years.

Based upon these verifications, the PHA will determine if the applicant was chronically late with rent payments, was evicted at any time during the past two (2) years for nonpayment of rent, or had other legal action initiated against him/her for debts owed. Any of these circumstances could be grounds for an ineligibility determination, depending on the amount of control the applicant had over the situation.

Applicants will not be considered to have a poor credit history if they had a poor rent paying history clearly related to an excessive rent relative to their income (using 50% of their gross income as a guide,) and responsible efforts were made by the family to resolve the nonpayment problem.

The lack of credit history will not disqualify a family, but a poor credit history will, with the exceptions noted above.

Where past rent paying ability cannot be documented, the PHA will check with the utility company(s) to determine whether the family has been current and timely on their payments.

Screening Applicants Who Claim Mitigating Circumstances

Mitigating circumstances are facts relating to the applicant's record of unsuitable rental history or behavior, which, when verified would indicate both: (1) the reason for the unsuitable rental history and/or behavior; and (2) that the reason for the unsuitable rental history and behavior is no longer in effect or is under control, and the applicant's prospect for lease compliance is an acceptable one, justifying admission.

If unfavorable information is received about an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. In order to be factored into the PHA's screening assessment of the applicant, mitigating circumstances must be verifiable.

If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, the PHA shall have the right to refer such information to persons who are qualified and knowledgeable to evaluate the evidence and to verify the mitigating circumstance. The PHA shall also have the right to request further information reasonably needed to verify the mitigating circumstance, even if such information is of a medically confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation.

Examples of Mitigating Circumstances

- Evidence of successful rehabilitation;
- Evidence of the applicant family's participation in and completion of social service or other appropriate counseling service approved by the PHA;
- Evidence of successful and sustained modification of previous disqualifying behavior;
- Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission. The PHA will consider such circumstances in light of:
 - The applicant's ability to substantiate through verification the claim of mitigating circumstances and his/her prospects for improved future behavior; and
 - The applicant's overall performance with respect to all the screening requirements.

Qualified and Unqualified Applicants

Information which has been verified by the PHA will be analyzed and a determination will be made with respect to:

- The eligibility of the applicant as a *family*;
- The eligibility of the applicant with respect to income limits for admission;
- The eligibility of the applicant with respect to citizenship or eligible immigration status;
- Preference category (if any) to which the family is entitled.

Assistance to a family may not be delayed, denied or terminated on the basis of the family's ineligible immigration status unless and until the family completes all the verification and appeals processes to which they are entitled under both INS and PHA procedures, except for a pending PHA hearing.

Applicants who are determined to be unqualified for admission will be promptly notified with a Notice of Denial of Admission stating the reason for the denial. The PHA shall provide applicants an opportunity for an informal hearing (see Chapter titled "Complaints, Grievances, and Appeals.")

Applicants who have requested a reasonable accommodation as a person with a disability and who have been determined eligible, but fail to meet the Applicant Selection Criteria, will be offered an opportunity for a second meeting to have their cases examined to determine whether mitigating circumstances or reasonable accommodations will make it possible for them to be housed in accordance with the screening procedures.

The PHA will make every effort to accurately estimate an approximate date of occupancy. However, the date given by the PHA does not mean that applicants should expect to be housed by that date. The availability of a suitable unit to offer a family is contingent upon factors not directly controlled by the PHA, such as turnover rates, and market demands as they affect bedroom sizes and project location.

Documenting Findings

An authorized representative of the PHA shall document any pertinent information received relative to the following:

- Criminal Activity - includes the activities listed in the definition of criminal activity in this Chapter.
- Pattern of Violent Behavior - includes evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy of neighbors.
- Pattern of Drug Use - includes a determination by the PHA that the applicant has exhibited a pattern of illegal use of a controlled substance which might interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Drug Related Criminal Activity - includes a determination by the PHA that the applicant has been involved in the illegal manufacture, sale, distribution, use or possession of a controlled substance.
- Pattern of Alcohol Abuse - includes a determination by the PHA that the applicant's pattern of alcohol abuse might interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.
- Initiating Threats - or behaving in a manner indicating an intent to assault employees or other tenants.
- Abandonment of a Public Housing Unit - without advising PHA officials so that staff may secure the unit and protect its property from vandalism.

- Non-Payment of Rightful Obligations - including rent and/or utilities and other charges owed to the PHA
- Intentionally Falsifying an Application for Leasing - including uttering or otherwise providing false information about family income and size, using an alias on the application for housing, or making any other material false statement or omission intended to mislead.
- Record of Serious Disturbances of Neighbors, Destruction of Property or Other Disruptive or Dangerous Behavior - consists of patterns of behavior which endanger the life, safety, or welfare of other persons by physical violence, gross negligence or irresponsibility; which damage the equipment or premises in which the applicant resides, or which are seriously disturbing to neighbors or disrupt sound family and community life, indicating the applicant's inability to adapt to living in a multi-family setting. Includes judicial termination of tenancy in previous housing on the grounds of nuisance or objectionable conduct, or frequent loud parties, which have resulted in serious disturbances of neighbors.
- Grossly Unsanitary or Hazardous Housekeeping - includes the creation of a fire hazard through acts such as hoarding rags, papers, or other materials; severe damages to premises and equipment, if it is established that the family is responsible for the condition; seriously affecting neighbors by causing infestation, foul odors, depositing garbage in halls; or serious neglect of the premises.
- Destruction of Property from previous rentals.
- Whether Applicant or tenant is Capable of Maintaining the Responsibilities of tenancy - In the case of applicants for admission, the person's present living arrangements and a statement obtained from applicant's physician, social worker, or other health professional will be among factors considered in making this determination. The availability of a live-in attendant will be considered in making this determination.

In the event of the receipt of unfavorable information with respect to an applicant,

Consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects.

The PHA may waive the policies prohibiting admission in these circumstances if the person demonstrates to the PHA's satisfaction that the person is no longer engaging in illegal use of a controlled substance or abuse of alcohol and has successfully completed a supervised drug or alcohol rehabilitation program.

Prohibited Criteria for Denial of Admission

Applicants will NOT be rejected because they:

- Have no income;
- Are not employed;
- Do not participate in a job training program;
- Will not apply for various welfare or benefit programs;
- Have children;
- Have children born out of wedlock;
- Are on welfare; or
- Are students.

Resident Participation in the Screening Process

It is the PHA's policy to encourage resident participation in the applicant intake and screening process. The PHA recognizes that screening is only part of the occupancy cycle, and for the PHA-resident partnership to be effective, work is required both before and after admission. Given this policy the PHA, in conjunction with its resident leaders, proposes the following areas of involvement:

- **Orientation for families in shelters.** The objective is to introduce shelter families to the PHA's screening requirements so that families with poor tenancy histories or no tenancy history can take actions to demonstrate that they meet PHA's criteria for admission.
- **Home visits.** To work with residents to establish home visit inspection standards. To train residents on the standards and use residents along with the PHA staff to conduct home visits.
- **Applicant pre-occupancy orientation.** Attendance at pre-occupancy orientation is a requirement of the screening process. The PHA and its residents will develop the agenda for this orientation to include such issues as rent, house rules, lease provisions, security, social services and utilities.

H. HEARINGS

If information is revealed that would cause the PHA to deny admission to the household and the person disputes the information, s/he shall be given an opportunity for an informal hearing according to the PHA's hearing procedures outlined in Chapter 13, Complaints, Grievances and Appeals.

Chapter 3

APPLYING FOR ADMISSION

INTRODUCTION

The policy of the PHA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but the PHA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Policy.

A. HOW TO APPLY

Families who wish to apply for any of the PHA's programs must complete a written application form when application-taking is open. Applications will be made available in an accessible format upon request from a person with a disability.

- Persons with disabilities may call the PHA to receive an application through the mail or make other arrangements to complete their pre-application.
- Applications will be accepted at the main administrative office and development site management office for all waiting lists.

The application process will involve two phases.

1. The first is the "initial" application for admission (referred to as a pre-application). This first phase is to determine the family's eligibility for, and placement on, the waiting list.

The pre-application will be dated, time-stamped, and referred to the PHA's office where tenant selection and assignment is processed.
2. The second phase is the "final determination of eligibility for admission" (referred as the full application). The full application takes place when the family reaches the top of the waiting list. At this time the PHA ensures that verification of all HUD and PHA eligibility factors is current in order to determine the family's eligibility for an offer of a suitable unit.

B. "INITIAL" APPLICATION PROCEDURES

The PHA will utilize a preliminary-application form (pre-application) for the initial application for public housing. The application is taken in person and the data is entered into the computer. The application may also be mailed to the applicant and, if requested, it will be mailed in an accessible format.

The purpose of the pre-application is to permit the PHA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list.

The pre-application will contain questions designed to obtain the following information:

- Names of head and spouse
- Names of adult members and age of all members
- Number of family members (used to estimate bedroom size needed)
- Street address and phone numbers
- Mailing address (If PO Box or other permanent address)
- Annual income
- Source(s) of income received by household members to determine preference qualification
- Information regarding request for reasonable accommodation or for accessible unit
- Social Security Numbers
- Race/ethnicity
- Arrests/Convictions for Drug Related or Violent Criminal Activity
- Previous address
- Names and address of current and previous landlords
- Emergency contact person and address
- Questions regarding previous participation in HUD programs
- Outstanding debts to the PHA
- Prior eviction or termination for assistance
- Illegal use or pattern of abuse of a controlled substance or alcohol
- Subject to lifetime registration requirements under any state sex offender's registration program

Applications will be taken over the phone or in person and data will be entered into the computer.

Duplicate applications, including applications from a segment of an applicant household, will not be accepted.

Pre-applications will not require interviews. Information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

Applicants are requested to inform the PHA in writing of changes in family composition, income, and address, as well as any changes in their Preference status. Applicants are also required to respond to requests from the PHA to update information on their application, or to determine their continued interest in assistance.

Failure to provide information or to respond to mailings will result in the applicant being removed from the waiting list. (See Chapter on Complaints, Grievances and Appeals.)

C. NOTIFICATION OF APPLICANT STATUS

If after a review of the pre-application the family is determined to be preliminarily eligible, they will be notified in writing (in an accessible format upon request, as a reasonable accommodation).

This written notification of preliminary eligibility will be mailed to the applicant by first class mail.

If the family is determined to be ineligible based on the information provided in the pre-application, the PHA will notify the family in writing, state the reason(s), and inform them of their right to an informal hearing. Persons with disabilities may request to have an advocate attend the informal hearing as an accommodation. (See Chapter on Complaints, Grievances and Appeals.)

D. COMPLETION OF A FULL APPLICATION

All preferences claimed on the pre-application or while the family is on the waiting list will be verified:

- Upon receipt of the preliminary application and prior to placement on the waiting list.

The qualification for preference must exist at the time the preference is verified regardless of the length of time an applicant has been on the waiting list because the preference is based on current status.

Applicants on the waiting list who will be selected in the near future will be sent a letter. (See Chapter on Tenant Selection and Assignment Plan.) The letter will notify the applicant of an application interview and request the applicant to bring all documents which verify all factors to be verified. Factors to be verified will be listed in the letter.

These documents will be used for verification only if third party verification cannot be obtained.

After the preference is verified, when the PHA is ready to select applicants, the PHA will send the applicant a letter notifying him/her of an appointment. Applicants will be required to:

- Complete a Personal Declaration Form prior to the full application interview.
- Complete a full application in their own handwriting, unless assistance is needed, or a request for accommodation is made by a person with a disability. Applicant will then be interviewed by PHA staff to review the information on the full application form.
- Participate in a full application interview with a PHA representative during which the applicant will be required to furnish complete and accurate information verbally as requested by the interviewer. The PHA interviewer will complete the full application form with answers supplied by the applicant. The applicant will sign and certify that all information is complete and accurate.

The full application will be mailed/communicated as requested as an accommodation to a person with a disability.

Requirement to Attend Interview

The PHA utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that the information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other PHA services or programs which may be available.

All adult family members must attend the interview and sign the housing application. Exceptions may be made for adult students attending school out of state or for members for whom attendance would be a hardship.

It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses two scheduled meeting(s), the PHA will reject the application.

If an applicant fails to appear for their interview without prior approval of the PHA, their application will be denied unless they can provide acceptable documentation to the PHA that an emergency prevented them from calling.

Reasonable accommodation will be made for persons with a disability who requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with permission of the person with a disability.

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal hearing. (See Chapter on Complaints, Grievances and Appeals.)

All adult members must sign form HUD-9886, "Release of Information," the declarations and consents related to citizenship/immigration status and any other documents required by the PHA. Applicants will be required to sign specific verification forms for information which is not covered by the HUD-9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by the PHA.

Information provided by the applicant will be verified, including information related to family composition, income, allowances and deductions, assets, eligible immigration status, full time student status and other factors related to preferences, eligibility and rent calculation.

If the PHA determines at or after the interview that additional information or document(s) are needed, the PHA will request the document(s) or information in writing. The family will be given seven (7) working days to supply the information.

If the information is not supplied in this time period, the PHA will provide the family a

notification of denial for assistance. (See Chapter on Complaints, Grievances and Appeals.)

E. PROCESSING APPLICATIONS

As families approach the top of the waiting list, the following items will be verified to determine qualification for admission to the PHA's housing:

- Preference verification
- Family composition and type (elderly/non elderly)
- Annual Income
- Assets and Asset Income
- Deductions from Annual Income
- Social Security Numbers of all family members
- Information used in applicant screening
- Citizenship or eligible immigration status
- Criminal History Report

F. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY

After the verification process is completed, the PHA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the PHA, and the tenant suitability determination (see Chapter on Eligibility for Admission).

Because HUD can make changes in rules or regulations and family circumstances may have changed during the review process that affect an applicant's eligibility, it is necessary to make final eligibility determination.

The household is not actually eligible for a unit offer until this final determination has been made, even though they may have been preliminarily determined eligible and may have been listed on the waiting list.

Chapter 4
TENANT SELECTION AND ASSIGNMENT PLAN
(Includes Preferences and Managing the Waiting List)

[24 CFR 960.204]

INSTRUCTION

In October 1998, Congress passed the Quality Housing and Work Responsibility Act of 1998, which repealed the use of Federal preferences.

Per the Quality Housing and Work Responsibility Act of 1998, PHAs are now allowed to implement site-based waiting lists upon approval of the Annual Plan or upon HUD's approval to the PHA's request before the submission of the Annual Plan.

INTRODUCTION

It is the PHA's policy that each applicant shall be assigned an appropriate place on a jurisdiction-wide waiting list. Applicants will be listed in sequence based upon date and time the application is received, the size and type of unit they require, and factors of preference or priority. In filling an actual or expected vacancy, the PHA will offer the dwelling unit to an applicant in the appropriate sequence, with the goal of accomplishing deconcentration of poverty and income-mixing objectives. The PHA will offer the unit until it is accepted. This Chapter describes the PHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list.

HA's Objectives

PHA policies will be followed consistently and will affirmatively further HUD's fair housing goals.

It is the PHA's objective to ensure that families are placed in the proper order on the waiting list so that the offer of a unit is not delayed to any family unnecessarily or made to any family prematurely. This chapter explains the policies for the management of the waiting list.

When appropriate units are available, families will be selected from the waiting list in their preference-determined sequence.

By maintaining an accurate waiting list, the PHA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available to fill unit vacancies in a timely manner. Based on the PHA's turnover and the availability of appropriate sized units, groups of families will be selected from the waiting list to form a final eligibility "pool." Selection from the pool will be based on completion of verification.

A. MANAGEMENT OF THE WAITING LIST

The PHA will administer its waiting list as required by 24 CFR Part 5, Subparts E and F, 24 CFR Part 960 Subpart B. The waiting list will be maintained in accordance with the following guidelines:

- The application will be a permanent file.
- All applicants in the pool will be maintained in order of date and time of application receipt.
- Applications equal in preference will be maintained by date and time sequence.
- All applicants must meet applicable income eligibility requirements as established by HUD.

Opening and Closing the Waiting Lists

The PHA, at its discretion, may restrict application intake, suspend application intake, and close waiting lists in whole or in part. The PHA may open or close the list by local preference category.

The decision to close the waiting list will be based on the number of applications available for a particular size and type of unit, and the ability of the PHA to house an applicant in an appropriate unit within a reasonable period of time.

- When the PHA opens the waiting list, the PHA will advertise through public notice in the newspaper of general circulation and minority publications.

The notice will contain:

- The dates, times, and the locations where families may apply.
- Any system of waiting list offered by the PHA.
- The programs for which applications will be taken.
- A brief description of the program.
- Limitations, if any, on who may apply.
- The closing date if the list is opened for only a limited time.

Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing deadline. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

When Application Taking is Suspended

The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

During the period when the waiting list is closed, the PHA will not maintain a list of individuals who wish to be notified when the waiting list is open.

Suspension of application taking is announced in the same way as opening the waiting list.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover over the next twenty four (24) months. The PHA will give at least three (3) days' notice prior to closing the list. When the period for accepting applications is over, the PHA will add the new applicants to the list by:

- Date and time of application receipt.

The PHA will update the waiting list quarterly by removing the names of those families who are no longer interested, no longer qualify for housing, or cannot be reached by mail or telephone. At the time of initial intake, the PHA will advise families of their responsibility to notify the PHA when mailing address or telephone numbers change.

Reopening the List

If the waiting list is closed and the PHA decides to open the waiting list, the PHA will publicly announce the opening.

Any reopening of the list is done in accordance with the HUD requirements.

Even though there are enough applicants on the waiting list to fill the turnover within the next 24 months, if there are not enough applicants who claim a local preference, the PHA may elect to accept applications from applicants who claim a local preference ONLY, and continue to keep the waiting list closed.

Limits on Who May Apply

When the waiting list is open,

- Any family asking to be placed on the waiting list for Public Housing rental assistance will be given the opportunity to complete an application.

When the application is submitted to the PHA:

- It establishes the family's date and time of application for placement order on the waiting list.

Multiple Families in Same Household

When families apply that consist of two families living together, (such as a mother and father,

and a daughter with her own husband or children). if they apply as a family unit. they will be treated as a family unit.

B. GEOGRAPHICAL BASED WAITING LISTS

The PHA offers a system of geographical area waiting lists.

Applicants may choose which geographical-based waiting list they wish to be placed on. regardless of the application site. Applicants may apply directly at or otherwise designate the geographical areas in which they seek to reside.

When there are insufficient applicants on a geographical waiting list, the PHA will contact applicants on other geographical area waiting lists who may qualify for the type of housing with insufficient applicants. "Insufficient applicants" on a list will be defined as enough families to fill vacancies for at least six (6) months, based on anticipated turnover at the development.

Every reasonable action will be taken by the PHA to assure that applicants can make informed choices regarding the project(s) in which they wish to reside. The PHA will disclose information to applicants regarding the location of available sites, occupancy number and size of accessible units. The PHA will also include basic information relative to amenities such as day care, security, transportation, training programs, and an estimate of the period of time the applicant will likely have to wait to be admitted to units of different types.

Monitoring Geographical Area Waiting Lists

The system geographical area waiting lists will be carefully monitored to assure that civil rights and fair housing are affirmatively furthered.

The PHA's adoption of geographical area waiting lists is not in violation of any court order or settlement agreement, and is not inconsistent with any pending complaint brought by HUD.

The PHA will monitor its system of geographical waiting list at least bi-annually to assure that racial steering does not occur. If the PHA's bi-annual analysis of its geographical area waiting list indicates that a pattern of racial steering is or may be occurring, the PHA will take corrective action.

For purposes of this policy these are the geographical area wait list.

- 1) City and County of Honolulu
 - a) Honolulu (Red Hill to Palolo)
 - b) Central Oahu (Wahiawa to Waialua)
 - c) Windward Oahu
 - d) Leeward Oahu (Pearl City, Waipahu, Waianae, Nanakuli, Kapolei)
- 2) County of Hawaii

- a) East Hawaii (Hilo, Honokaa to Ka'u)
- b) West Hawaii (Kona, Kohala, Waimea)
- 3) County of Maui
 - a) East Maui (Kahului to Wailuku)
 - b) West Maui (Lahaina)
 - c) Molokai
- 4) County Kauai
 - a) East Kauai (Hanamaulu to Kapaa, Kilauea)
 - b) West Kauai (Koloa to Kekaha)

C. WAITING LIST PREFERENCES

A preference does not guarantee admission to the program. Preferences are used to establish the order of placement on the waiting list. Every applicant must meet the PHA's Selection Criteria as defined in this policy.

The PHA's preference system will work in combination with requirements to match the characteristics for the family to the type of unit available, including units with targeted populations, and further deconcentration of poverty in public housing. When such matching is required or permitted by current law, the PHA will give preference to qualified families.

Families who reach the top of the waiting list will be contacted by the PHA to verify their preference and, if verified, the PHA will complete a full application for occupancy. Applicants must complete the application for occupancy and continue through the application processing and may not retain their place on the waiting list if they refuse to complete their processing when contacted by the PHA.

Among applicants with equal preference status, the waiting list will be organized by date and time.

An applicant will not be granted any preference if any member of the family has been evicted from any federally assisted housing during the past two (2) years because of drug-related criminal activity.

The PHA will grant an exception to such a family if the responsible member has successfully completed a rehabilitation program.

If an applicant makes a false statement in order to qualify for a Local preference, the PHA will deny admission to the program for the family

Local Preferences

The PHA uses the following Local Preferences pursuant to its PHA Plan:

1. These preferences shall be given first priority but have equal weight within this group:

- **Victims of domestic violence;**

Actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit with the family.

The actual or threatened violence must have occurred within the past 7 days or be of a continuing nature.

An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced.

To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless the PHA gives prior written approval.

The PHA will approve the return of the abuser to the household under the following conditions:

- The PHA verifies that the abuser has received therapy or counseling that appears to minimize the likelihood of recurrence of violent behavior.
- A counselor, therapist or other knowledgeable professional recommends in writing that the individual be allowed to reside with the family.

If the abuser returns to the family without approval of the PHA, the PHA will deny or terminate assistance for breach of the certification.

The PHA will take precautions to ensure that the new location of the family is concealed in cases of domestic abuse.

- **Homeless families that are residing in transitional shelter for the homeless and who are in compliance with a social service plan; or**

- An applicant who is a "Homeless Family" is considered to be living in substandard housing. "Homeless Families":

Lack a fixed, regular and adequate nighttime residence; and

Have a primary nighttime residence that is a supervised public or private shelter providing temporary accommodations (including welfare hotels, congregate shelters and transitional housing), or an institution providing temporary residence

for individuals intended to be institutionalized, or a public or private place not ordinarily used as a sleeping accommodation for human beings.

Homeless families may not maintain their place on the waiting list while completing a transitional housing program.

- Families who are residing with friends or relatives on a temporary basis will not be included in the homeless definition.
- Persons who reside as part of a family unit shall not be considered a separate household.
- **Involuntary displaced.**

Involuntarily Displaced applicants are applicants who have been involuntarily displaced and are not living in standard, permanent replacement housing, or will be involuntarily displaced within no more than six months from the date of verification by the PHA. Standard replacement housing is defined as housing that is decent, safe and sanitary according to local housing code, that is adequate for the family size according to Housing Quality Standards, and that the family is occupying pursuant to a written or oral lease or occupancy agreement.

Standard replacement housing does not include transient facilities, hotels, motels, temporary shelters, and (in the case of Victims of Domestic Violence) housing occupied by the individual who engages in such violence. It does not include any individual imprisoned or detained pursuant to State Law or an Act of Congress. Shared housing with family or friends is not considered temporary and is not considered standard replacement housing.

Families are considered to be involuntarily displaced if they are required to vacate housing as a result of:

1. A disaster (fire, flood, earthquake, etc.) that has caused the unit to be uninhabitable.
2. Federal, state or local government action related to code enforcement, public improvement or development.
3. Action by a housing owner which is beyond an applicant's ability to control, and which occurs despite the applicant's having met all previous conditions of occupancy, and is other than a rent increase.

If the owner is an immediate family relative and there has been no previous rental agreement and the applicant has been part of the owner's family immediately prior to application, the applicant will not be considered involuntarily displaced.

For purposes of this definitional element, reasons for an applicant's having to

vacate a housing unit include, but are not limited to:

- Conversion of an applicant's housing unit to non-rental or non-residential use;
 - Closure of an applicant's housing unit for rehabilitation or non-residential use;
 - Notice to an applicant that s/he must vacate a unit because the owner wants the unit for the owner's personal or family use or occupancy;
 - Sale of a housing unit in which an applicant resides under an agreement that the unit must be vacant when possession is transferred; or
 - Any other legally authorized act that results, or will result, in the withdrawal by the owner of the unit or structure from the rental market.
4. Displacement by non-suitability of the unit when a member of the family has a mobility or other impairment that makes the person unable to use critical elements of the unit and the owner is not legally obligated to make changes to the unit.

Critical elements are:

- entry and egress of unit and building,
 - a sleeping area,
 - a full bathroom, and
 - a kitchen if the person with a disability must do their own food preparation
5. Due to HUD disposition of a multifamily project under Section 203 of the Housing and Community Development Amendments of 1978.
2. These preferences shall be given second priority but have equal weight within this group:
- **Living in substandard housing.** Applicants who live in substandard housing are families whose dwelling meets one or more of the following criteria:
 - Is dilapidated, and does not provide safe, adequate shelter; has one or more critical defects or a combination of defects requiring considerable repair; endangers the health, safety, and well-being of family.
 - Does not have operable indoor plumbing.
 - Does not have usable flush toilet in the unit for the exclusive use of the family.
 - Does not have usable bathtub or shower in unit for exclusive family use.
 - Does not have adequate, safe electrical service.

- Does not have an adequate, safe source of heat.
- Should, but does not, have a kitchen. (Single Room Occupancy [SRO] Housing is not substandard solely because it does not contain sanitary and/or food preparation facilities in the unit).
- Has been declared unfit for habitation by a government agency.
- Is overcrowded according to HQS local code.
- Applicants living in Public Housing or publicly assisted housing shall not be denied this preference if unit meets the criteria for the substandard preference.
- **Paying more than fifty per cent of annual income for rent.** Families paying more than 50% of their income for rent and utilities for at least 90 days and continuing through the verification of preference will receive this preference.

For purposes of this preference, "Family Income" is Gross Monthly Income as defined in the regulations.

"Rent" is defined as the actual amount due under a lease or occupancy agreement calculated on a monthly basis without regard to the amount actually paid, plus the monthly amount of tenant-supplied utilities which can be either:

- The PHA's reasonable estimate of the cost of such utilities, using the Section 8 Utility Allowance Schedule; or
- The average monthly payments the family actually made for these utilities in the most recent 12-month period, or if information is not obtainable for the entire period, the average of at least the past three (3) months.

An applicant family may choose which method to use to calculate utilities expense. Any amounts paid to or on behalf of a family under any energy assistance program must be subtracted from the total rent burden if included in Family Income.

To qualify for the Rent Burden preference, the applicant must pay rent directly to the landlord or agent.

If the applicant pays their share of rent to a cohabitant and is not named on the lease, the PHA will require both verification from the Landlord that the applicant resides in the unit, and verification from the cohabitant of the amount of rent paid by the applicant.

If the applicant is subletting, the lessor must have the legal right to sublet.

Members of a cooperative are "renters" for the purposes of qualifying for the preference. In this case, "Rent" would mean the charges under the occupancy agreement.

3. These other preferences have equal weight within this group:

- **Veterans and veterans' surviving spouses.** "Veteran" means a person who has served in the active military or naval service of the United States at any time and who has been discharged or released from active duty under conditions other than dishonorable;
- **Residents who live and/or work in the jurisdiction** (by county). The counties include the County of Maui, Hawaii, Kauai and City and County of Honolulu;
- **Families that contribute to meeting the PHA's income targeting requirements;**
- **Victims of reprisals or hate crimes; or**

To avoid reprisals because the family provided information on criminal activities to a law enforcement agency and, after a threat assessment, the law enforcement agency recommends rehousing the family to avoid or reduce risk of violence against the family.

The family must be part of a Witness Protection Program, or the HUD Office or law enforcement agency must have informed the PHA that the family is part of a similar program.

The PHA will take precautions to ensure that the new location of the family is concealed in cases of witness protection.

By hate crimes if a member of the family has been the victim of one or more hate crimes, and the applicant has vacated the unit because of the crime or the fear of such a crime has destroyed the applicant's peaceful enjoyment of the unit.

A hate crime is actual or threatened physical violence or intimidation that is directed against a person or his property and is based on the person's race, color, religion, sex, national origin, disability or familial status [including sexual orientation] and occurred within the last [number of] days or is of a continuing nature.

- **Working families and those unable to work because of age or disability.** Working families are families with at least one adult who is employed and has been employed for twelve (12) months. This preference is extended equally to an applicant whose head or spouse are age 62 or older or are receiving social security disability, supplemental security income disability benefits, or any other payments based on an individual's inability to work.

Treatment of Single Applicants

All families with children, elderly families and disabled families will have an admission preference over "Other Singles".

Singles Preference

Applicants who are elderly, disabled, or displaced households of no more than two persons will be given a selection priority over all "Other Single" applicants regardless of preference status.

"Other Singles" denotes a one-person household in which the individual member is neither elderly, disabled, or displaced by government action. Such applicants will be placed on the waiting list in accordance with their preferences, but can not be selected for assistance before any *one or two person* elderly, disabled or displaced family regardless of local preferences.

D. FACTORS OTHER THAN PREFERENCES THAT AFFECT SELECTION OF APPLICANTS

Before applying its preference system, the PHA will first match the characteristics of the available unit to the applicants available on the waiting lists. Factors such as unit size, accessible features, deconcentration or income mixing, income targeting, or units in housing designated for the elderly limit the admission of families to those characteristics that match the characteristics and features of the vacant unit available.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application.

Any admission mandated by court order related to desegregation or Fair Housing and Equal Opportunity will take precedence over the Preference System. Other admissions required by court order will also take precedence over the Preference System. If permitted by the court order, the PHA may offer the family a housing voucher.

E. INCOME TARGETING

The PHA will monitor its admissions to ensure that at least 40 percent of families admitted to public housing in each fiscal year shall have incomes that do not exceed 30% of area median income of the PHA's jurisdiction.

Hereafter families whose incomes do not exceed 30% of area median income will be referred to as "extremely low income families."

The PHA shall have the discretion, at least annually, to exercise the "fungibility" provision of the QHWRA by admitting less than 40 percent of "extremely poor families" to public housing in a fiscal year, to the extent that the PHA has provided more than 75 percent of newly available vouchers and certificates to "extremely poor families." This fungibility provision discretion by the PHA is also reflected in the PHA's Administrative Plan.

The fungibility credits will be used to drop the annual requirement below 40 percent of admissions to public housing for extremely poor families by the lowest of the following amounts:

- The number of units equal to 10 percent of the number of newly available vouchers and certificates in the fiscal year; or
- The number of public housing units that 1) are in public housing projects located in census tracts having a poverty rate of 30% or more, and 2) are made available for occupancy by and actually occupied in that year by, families other than extremely low-income families.

The Fungibility Floor: Regardless of the above two amounts, in a fiscal year, at least 30% of the PHA's admissions to public housing will be to extremely low-income families. The fungibility floor is the number of units that cause the PHA's overall requirement for housing extremely low-income families to drop to 30% of its newly available units.

Combining Low and Very Low-Income Family Admissions

Once the PHA has exceeded the 40% targeted income requirement for new admissions of extremely low-income families, the PHA will fill the remaining 60% of its new admission units with both low and very low-income families.

F. UNITS DESIGNATED FOR THE ELDERLY

In accordance with the 1992 Housing Act, elderly families with a head, spouse or sole member at least 62 years of age may receive a preference for admission to such units or buildings covered by a HUD-approved Allocation Plan, except for the units which are accessible, which may be offered to persons with disabilities.

The PHA may take the following action when processing families for developments designated for the elderly:

- When there are insufficient elderly families who wish to reside in a development, near-elderly families (head or spouse ages 50-61) receive a preference for this type of unit.
- When there are insufficient elderly or near-elderly families who wish to reside in a development, and units are ready for leasing more than 60 days, all other family types are eligible for such units.
- Families with members who require a unit with accessible features may receive preference for such units over families who do not require such features.

Procedure to Be Used When There Are Insufficient Applicants on the List

When there are insufficient applicants on the waiting list for the elderly-designated development, the development will contact applicants on other waiting lists to determine their interest in applying for the waiting list of the development with insufficient applicants on it. If an interested elderly family is located, the housing management staff of the development with no waiting list will place the applicant on its waiting list, also, and contacted to verify their preference and complete a full application when their name is close to the top of the waiting list.

Where the PHA anticipates that there are insufficient elderly or near-elderly families on the waiting list for these units the PHA will notify local senior service centers [and local media sources aimed at the elderly] to recruit elderly families for the waiting list for these projects.

When there are no elderly applicants from other sites interested in the elderly-designated development, after conducting outreach, near-elderly applicants who are 50-62 years of age can be admitted to the elderly-designated development. If there are no near-elderly applicants on the list, the development housing management staff will contact near-elderly applicants on other development lists to determine interest and add to their list, if applicable.

When there are no near-elderly applicants from other sites interested in the elderly-designated development, after conducting outreach, single applicants who are below 50 years of age can be admitted to the elderly-designated development.

G. UNITS DESIGNATED FOR THE DISABLED

In accordance with the 1992 Housing Act, disabled families with a head, spouse or sole member who qualifies as a person with disabilities as defined in 24 CFR 945.105 will receive a preference for admission to units that are covered by a HUD-approved Allocation Plan.

The PHA has units designed for persons with mobility, sight and hearing impairments (referred to as accessibility units). These units were designed and constructed specifically to meet the needs of persons requiring the use of wheelchairs and persons requiring other modifications.

Preference for occupancy of these units will be given to families with disabled family members who require the modifications or facilities provided in the units.

H. MIXED POPULATION UNITS

A mixed population project is a public housing project, or portion of a project that was reserved for elderly families and disabled families at its inception (and has retained that character).

In accordance with the 1992 Housing Act, elderly families whose head spouse or sole member is at least 62 years of age, and disabled families whose head, co-head or spouse or sole member is a person with disabilities, will receive equal preference to such units.

No limit will be established on the number of elderly or disabled families that may occupy a mixed population property. All other PHA preferences will be applied.

I. GENERAL OCCUPANCY UNITS

General occupancy units are designed to house all populations of eligible families. In accordance with the PHA's occupancy standards, eligible families not needing units designed with special features or units designed for special populations will be admitted to the PHA's general occupancy units.

The PHA will use its local preference system as stated in this chapter for admission of eligible families to its general occupancy units.

All families with children, elderly families and disabled families, will have an admission preference over "Other Singles."

The PHA will treat all single applicants who are not elderly or disabled as they would any other family for admission purposes.

J. DECONCENTRATION OF POVERTY AND INCOME-MIXING

It is the intent of the PHA to promote adequate and affordable housing, economic opportunity and a suitable living environment free of discrimination. Tenant selection and assignment for federal public housing shall be made without regard to race, color, religion, ancestry/national origin, sex familial status, physical or mental disability, marital status age, or HIV infection. To improve community quality of life and economic vitality, the PHA will implement measures to provide for deconcentration of poverty and income-mixing. The PHA will bring higher income tenants into lower income developments and lower income tenants into higher income developments. Additionally, the PHA will support measures to raise the income of households that currently reside in federal public housing. All measures and incentives that are undertaken to accomplish deconcentration and income-mixing will be uniformly applied.

The PHA's admission policy is designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects.

Gross annual income is used for income limits at admission and for income-mixing purposes.

Skipping of a family on the waiting list specifically to reach another family with a lower or higher income is not to be considered an adverse action to the family. Such skipping will be uniformly applied until the target threshold is met.

The PHA will gather data and analyze, at least annually, the tenant characteristics of its public housing stock, including information regarding tenant incomes, to assist in the PHA's deconcentration efforts.

The PHA will use the gathered tenant incomes information in its assessment of its public housing developments to determine the appropriate designation to be assigned to the project for the purpose of assisting the PHA in its deconcentration goals.

If the PHA's annual review of tenant incomes indicates that there has been a significant change in the tenant income characteristics of a particular project, the PHA will evaluate the changes to determine whether, based on the PHA methodology of choice, the project needs to be redesignated as a higher or lower income project or whether the PHA has met the deconcentration goals and the project needs no particular designation.

Deconcentration and Income-Mixing Goals

Admission policies related to the deconcentration efforts of the PHA do not impose specific quotas. Therefore, the PHA will not set specific quotas, but will strive to achieve deconcentration and income-mixing in its developments.

The PHA's income-mixing goal is a long-range goal and may not be achieved in the first year of implementation. The PHA will use its annual analysis of its public housing stock and tenant incomes to provide benchmarks for the PHA.

The PHA will add additional sites to its deconcentration goals each year until it has met its desired goal for all of its developments.

Project Designation Methodology

The PHA will determine and compare tenant incomes at the developments listed in this Chapter.

Upon analyzing its findings the PHA will apply the policies, measures and incentives listed in this Chapter to bring higher income families into lower income developments and lower income families into higher income developments.

The PHA's goal is to have eligible families having higher incomes occupy dwelling units in projects predominantly occupied by eligible families having lower incomes, and eligible families having lower incomes occupy dwelling units in projects predominantly occupied by eligible families having higher incomes.

Families having lower incomes include very low- and extremely low-income families.

When selecting applicant families and assigning transfers for a designated project the PHA will determine whether the selection of the family will contribute to the PHA's deconcentration goals.

The PHA will not select families for a particular project if the selection will have a negative effect on the PHA's deconcentration goals. However, if there are insufficient families on the waiting list or transfer list, under no circumstances will a unit remain vacant longer than necessary.

Method No. 1 – Aggregate Average Method

- The PHA will review the annual resident income of all family sites in the various county jurisdiction and using the incomes of all families in the targeted developments as a baseline, determine the average income of all of its resident families.

- The PHA will designate higher income developments those with average income above the aggregate average.

The PHA will designate lower income developments those with average income below the aggregate average.

PHA Incentives for Higher Income Families

The PHA will offer certain incentives to higher income families willing to move into lower income projects. The PHA will not take any adverse action against any higher income family declining an offer by the PHA to move into a lower income project.

In addition to maintaining its public housing stock in a manner that is safe, clean, well landscaped and attractive, the PHA may offer the following incentives for higher income families moving into lower income projects:

- PHA may pay for the installation of cable television.
- PHA may pay for the installation of telephone service.
- PHA may pay for utilities hookup.

K. VERIFICATION OF PREFERENCE QUALIFICATION [24 CFR 5.415]

The family may be placed on the waiting list upon their certification that they qualify for a preference. When the family is selected from the waiting list for the final determination of eligibility, the preference will be verified.

The PHA will verify all preference claims at the time they are made.

The PHA will re-verify a preference claim, if the PHA feels the family's circumstances have changed, at time of selection from the waiting list.

If the preference verification indicates that an applicant does not qualify for the preference, the applicant will be returned to the waiting list and ranked without the Local Preference and given an opportunity for a review.

If at the time the family applied, the preference claim was the only reason for placement of the family on the waiting list and the family cannot verify their eligibility for the preference as of the date of application, the family will be removed from the list.

When the PHA anticipates that the family will be notified in the near future to complete a full application, the family will be sent a Preference Verification letter to the applicant's last known address, requesting verification of the family's preference. The PHA will verify the preference before the applicant's interview is conducted.

Change in Circumstances

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify the PHA in writing when their circumstances change. When an applicant claims an additional preference, s/he will be placed on the waiting list in the proper order of their newly-claimed preference.

L. PREFERENCE DENIAL [24 CFR 5.415]

If the PHA denies a preference, the PHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal meeting. The applicant will have 14 days to request the meeting in writing/or by phone. If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the waiting list with notification to the family.

M. OFFER OF PLACEMENT ON THE SECTION 8 WAITING LIST

The PHA will not merge the waiting lists for public housing and Section 8. However, if the Section 8 waiting list is open when the applicant is placed on the public housing list, the PHA must offer to place the family on both lists. If the public housing waiting list is open at the time an applicant applies for Section 8, the PHA must offer to place the family on the public housing waiting list.

N. REMOVAL FROM WAITING LIST AND PURGING [24 CFR 960.204(a)]

- The applicant requests the applicant's name be removed;
- The applicant fails to notify the corporation of applicant's continued interest in housing at least once every 12 months;
- The applicant no longer meets eligibility criteria;
- The applicant fails to respond to corporation's reasonable contact efforts. Correspondence to the last known address will constitute reasonable effort to contact;
- The applicant fails without good cause to keep a scheduled interview or to provide requested information necessary to determine eligibility; or
- The applicant misrepresents any material information to the corporation in the application or otherwise.

O. OFFER OF ACCESSIBLE UNITS

The PHA has units designed for persons with mobility, sight and hearing impairments, referred to as accessible units.

No non-mobility impaired families will be offered these units until all eligible mobility-impaired applicants have been considered.

Before offering a vacant accessible unit to a non-disabled applicant, the PHA will offer such units:

- To an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible/adaptable unit to a non-disabled applicant, the PHA will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the applicant. This requirement will be a provision of the lease agreement.

(See Chapter 9, Leasing)

P. PLAN FOR UNIT OFFERS

The selection of applicants and assignment of dwelling units will assure equal opportunity and non-discrimination on grounds of race, color, sex, religion, marital status, creed, national or ethnic origin, age, familial status, handicap or disability or HIV infection.

The PHA will offer a unit of the appropriate size to the first qualified applicant in sequence on the waiting list. The applicant will be afforded 3 offers of a suitable unit before they are removed from the waiting list.

The PHA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

Q. CHANGES PRIOR TO UNIT OFFER

Changes that occur during the period between removal from the waiting list and an offer of a suitable unit may affect the family's eligibility or Total Tenant Payment. The family will be notified in writing of changes in their eligibility or level of benefits and offered their right to an informal hearing when applicable (See Chapter on Complaints, Grievances, and Appeals)

R. APPLICANT STATUS AFTER FINAL UNIT OFFER

When an applicant rejects the final unit offer the PHA will:

- Remove the applicants name from the waiting list.
- Removal from the waiting list means:

- The applicant must reapply.

S. TIME-LIMIT FOR ACCEPTANCE OF UNIT

Applicants must accept a unit offer within three (3) working days of the date the offer is made. Offers made over the telephone will be confirmed by letter. If unable to contact an applicant by telephone, the PHA will send a letter.

Applicants Unable to Take Occupancy

If an applicant is willing to accept the unit offered, but is unable to take occupancy at the time of the offer for "*good cause*," the applicant will not be removed from the waiting list. Examples of "*good cause*" reasons for the refusal to take occupancy of a housing unit include, but are not limited to:

- An elderly or disabled family makes the decision not to occupy or accept occupancy in designated housing. [24 CFR 945.303(d)]
- Inaccessibility to source of employment or children's day care such that an adult household member must quit a job, drop out of an educational institution or a job training program;
- Presence of lead paint in the unit offered when the applicant has children under the age specified by current law;
- The family demonstrates to the PHA's satisfaction that accepting the offer will result in a situation where a family member's life, health or safety will be placed in jeopardy. The family must offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. The reasons offered must be specific to the family. Refusals due to the location of the unit alone are not considered to be good cause.
- A qualified, knowledgeable, health professional verifies the temporary hospitalization or recovery from illness of the principal household member, other household members, or a live-in aide necessary to care for the principal household member.
- The unit is inappropriate for the applicant's disabilities.

Applicants With a Change in Family Size or Status

Changes in family composition, status, or income between the time of the interview and the offer of a unit will be processed. The PHA shall not lease a unit to a family whose occupancy will overcrowd or under utilize the unit.

The family will take the appropriate place according to the date they first applied.

T. REFUSAL OF OFFER

If the unit offered is inappropriate for the applicant's disabilities, the family will retain their position on the waiting list.

If the unit offered is refused for other reasons, the PHA will follow the applicable policy as listed in Sections P. Plan for Unit Offers and R. Applicant Status After Final Offer.

U. PERMANENT DENIAL OF MANUFACTURERS/PRODUCERS OF METHAMPHETAMINES AND SEX OFFENDERS

The PHA will permanently deny admission to persons who are:

- a. Subject to lifetime registration requirements under a State sex offender's lifetime registration program and
- b. Convicted of manufacturing/distributing methamphetamines ("speed or ice")